

PATENT APPLICATION
Serial Number: 09/492,218
Attorney Docket Number: STD 1757

REMARKS

Applicant hereby submits this Amendment D for the Final Office Action—Date Mailed: October 21, 2003, Paper No. 22, for which a response is due January 21, 2004 by a shortened statutory period for reply set to expire three months from the mailing date of the Office Action.

Claims 1-113 are currently pending in the application. Claims 41-51 are allowed. Claims 1-40, 53-76, 79-96 and 99-113 are rejected. Claims 52, 77, 78, 97 and 98 are objected to. Claims 1-6, 23-32, 37-44, 51-58, 60, 61, 66-71, 73, 74, 77, 78, 81, 82, 86-88, 91, 92, 94, 95, 97 and 107-110 are hereby amended. Claims 114 and 115 are hereby added.

No new matter has been added. This response is accompanied by the appropriate fee transmittal authorizing the Commissioner to charge any additional fees and credit any overpayments during the pendency of this application to Sitrick & Sitrick's Deposit Account Number: 501166. Reconsideration is respectfully requested.

Examiner states, "Claims 1-40, and 53-76, 79-96, and 99-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson et al. (5,823,788) in view of Ishii (5,400,687)." (paper no. 22, page 2, lines 8-9)

Examiner states, "Lemelson et al. disclose most of the components of the claimed invention." (paper no. 22, page 3, line 15)

Applicant has filed concurrently herewith a Declaration under 37 CFR 1.131 and has sworn back of the Lemelson et al. (5,823,788) reference. (As a result of involvement in recent litigation, Applicant discovered an archived early draft of the specification and swears back until at least the date of the said draft: October 23, 1995. The discovery of this archived early draft of the specification was made after Applicant's response to the last Office Action—paper no. 20—for this present patent application. Applicant can show continuous efforts in the reduction of practice for the present invention from at least October 23, 1995 through the present application's priority date: July 10, 1996.) Therefore, the combination of Lemelson et al. with any other reference is an improper combination. The final rejection of Claims 1-40, 53-76, 79-96 and 99-113 under 35 U.S.C. 103(a) based upon Lemelson et al. (US 5,823,788) is hereby traversed and overcome in accordance with 37 CFR 1.131.

Examiner states, "... Ishii provide small enhancements that overall make Lemelson et al. more efficient with more ability for performance in editing as well as displaying musical composition." (paper no. 22, page 4, lines 5-6)

PATENT APPLICATION
Serial Number: 09/492,218
Attorney Docket Number: STD 1757

Furthermore, Ishii (US 5,400,687), alone or in combination with any other art of record, does not teach, suggest or infer Applicant's present invention. Additionally, it is respectfully submitted that Examiner's reliance upon the combination of Lemelson and Ishii was improper, because Lemelson is not prior art to the pending application, and in any event, Lemelson did not teach, suggest or infer combination with Ishii.

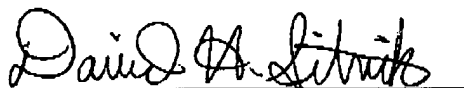
Claims 52, 77, 78, 97, and 98 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, in light of the above remarks, it is respectfully submitted that all objections as to Claims 52, 77, 78, 97, and 98, as being dependent upon a rejected base claim, are traversed and overcome.

Applicant's current amendments to claims have been made for clarification purposes to promote a better understanding of the claims' language and meanings for Examiner. These amendments have not been made in response to any art of record.

Applicant respectfully submits that all bases of Examiner's objections and rejections have been successfully traversed and overcome, and that all claims 1-115 are in proper form for allowance. Reconsideration is requested taking the form of a withdrawal of the Final Rejection and issuance of a Notice of Allowance.

The Examiner is invited to directly communicate with the undersigned, if it will in any way facilitate the prosecution of the application.

Respectfully submitted,



David H. Sitrick
Attorney for Applicant
Registration No. 29,349

January 21, 2004

SITRICK & SITRICK
8340 N. Lincoln Ave., Suite 201
Skokie, IL 60077
Telephone Number: (847) 677-4411
Facsimile Number: (847) 677-4656